IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No.2888-M of 2007

DATE OF DECISION:01.2.2007

Ramesh @ Mahesha & Ors. .....Petitioners

Versus

State of Haryana .....Respondent

CORAM:- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present:- Shri Jitender Dhanda, Advocate
for the petitioners.

Shri Partap Singh, Sr. DAG, Haryana.

Shri JP Dhull, Advocate
for the complainant.

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The petitioners, who are 30 in number and in custody since 8.1.2007, have filed this petition under Section 439 Cr.P.C. for the grant of regular bail in case FIR No. 104 dated 19.6.2003 under Sections 148/149/323/324/326/341/506/307 IPC, registered at Police Station Kalayat, District Kaithal.

I have heard counsel for the parties and gone through the contents of the FIR.

In this case, all the petitioners were arrested on 21.6.2003 in the aforesaid FIR, which was registered on 19.6.2003 under Sections 148/149/323/324/326/341/506/307 IPC. After the investigation, challan was filed by the police under Sections 326/323/324/341/506/148/149 IPC and the offence under Section 307 IPC was not found to be established because as per the opinion of the Doctor no offence under Section 307 IPC was made out. Thereafter on regular bail application filed by the petitioners, they were released in the month of August and September, 2003 vide two separate orders. When the case was taken up for framing of the charge on 22.3.2006, the Chief Judicial Magistrate took a view that

from the material available on record, prima facie an offence under Section 307 IPC is also made out. Consequently, he committed the case to the court of Sessions. When the petitioners appeared before the Court of Sessions on 22.3.2006, they were taken into custody. Thereafter, the court of Sessions heard the parties at the time of taking cognizance and vide order dated 3.4.2006 came to the conclusion that no offence under Section 307 IPC is made out. Consequently, the case was sent back to the Chief Judicial Magistrate for framing the charge against the petitioners under Sections 148/323/324/341/326/506/149 IPC. The complainant challenged the said order in this Court by filing Crl. Revn. No. 1024 of 2006. The said revision petition was allowed and order of Additional Sessions Judge, Kaithal dated 3.4.2006 was set aside and the matter was remitted to the said Court to proceed with the case in accordance with law and the parties were directed to appear before the Additional Sessions Judge, Kaithal on 8.1.2007. When on 8.1.2007 all the petitioners appeared before the Additional Sessions Judge, Kaithal, they were taken into custody and the bail application filed by them was dismissed by the Additional Sessions Judge on 12.1.2007 and since then are in custody.

These facts have not been disputed by the counsel for the respondent-State.

Keeping in view the fact that the petitioners were earlier arrested and released on bail twice and the fact that it is again debatable as to whether the offence under Section 307 IPC is made out or not and evidence in this regard is yet to be recorded, I deem it appropriate to grant regular bail to the petitioners and they are accordingly ordered to be released on bail subject to their furnishing bail bonds to the satisfaction of trial Court.

February 01, 2007 **(SATISH KUMAR MITTAL)**
pooja **JUDGE**